

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIE ANDERSON

Defendant.

Criminal Action No.05-57-JJF

**MOTION TO EXTEND TIME FOR GOVERNMENT'S
RESPONSE TO DEFENDANT'S MOTION FOR RESENTENCING**

COMES NOW the United States of America, by and through Colm F. Connolly, United States Attorney for the District of Delaware and Keith M. Rosen, Assistant United States Attorney, and hereby responds to the defendant's motion for resentencing pursuant to 18 U.S.C. 3582(c)(2). For the reasons set forth below, the government respectfully asks that this Court continue the time for the government's response for a period of thirty (30) days. In support thereof, the government states as follows:

1. Defendant Willie Anderson has filed a motion for reduction of sentence, pursuant to 18 U.S.C. § 3582(c)(2), based on a recent amendment to the Sentencing Guidelines which lowered the base offense levels applicable to cocaine base ("crack") offenses. By prior Order of the Court, the government was directed to file a response no later than February 29, 2007.

2. In stating its determination to apply the crack cocaine amendment retroactively, the Sentencing Commission declared that this authority will go into effect on March 3, 2008. Accordingly, this Court is without authority to reduce a sentence prior to that date. *See United States v. Wise*, – F.3d –, 2008 WL 361809 at *9 (3d Cir. Feb. 12, 2008). As the *Wise* decision

makes plain, this Court's authority to alter an otherwise final sentence in this case is wholly dependent on the authorization of the Sentencing Commission.

3. In anticipation of the expected effective date of the amendment, the United States Probation Office – in conjunction with the government and the Federal Public Defender's Office – has been evaluating all the prior sentences issued by this Court in cocaine base cases in an effort to identify those defendants who may qualify for the reduction.

4. Further, pursuant to an Administrative Order issued by the Court (per Sleet, C.J.), the Federal Public Defender has been appointed to represent any defendant, previously determined to have been entitled to appointment of counsel, or who has been incarcerated continually for more than 18 months, to determine whether or not that defendant may qualify to seek reduction of sentence, and to present any motions or applications for reduction of sentence, in accordance with the revised base offense levels for crack cocaine offenses.

5. The process described above is presently ongoing. On or about February 26, 2008, undersigned counsel for the government contacted the Federal Public Defender and advised him of the defendant's *pro se* petition. The Federal Public Defender advised that a member of his office would review the defendant's file and contact the defendant in accordance with the Administrative Order. The government is also aware that the U.S. Probation Office is evaluating the defendant's case among the subset of previously sentenced cocaine base offenders who may qualify for the reduction.

6. Based on the forgoing, the government respectfully submits that it is in the interest of justice to continue the government's response date by a period of thirty (30) days to permit the Federal Public Defender to review the defendant's petition and, if so desired by the

defendant, to supplement that petition; as well as to allow the U.S. Probation Office to continue to evaluate the defendant's petition and forward its recommendation to the Court.

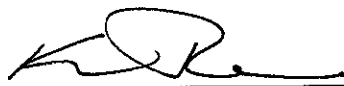
7. The government notes that the U.S. Probation Office has been attempting to resolve all the potential resentencing cases in the order in which the defendants would be released if their petitions were granted. The government has been advised by the Probation Office that even if this defendant's petition was granted and the Court resentenced the defendant to the low end of the new guideline range, his projected release date would not be until August 2011. Accordingly, the requested delay will not prejudice the defendant.

WHEREFORE, for the reasons set forth above, the government respectfully requests that the Court continue the time for its response to the defendant's petition by thirty (30) days.

Respectfully submitted,

COLM F. CONNOLLY
United States Attorney

BY:



Keith M. Rosen
Assistant United States Attorney
District of Delaware

Dated: February 28, 2008

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIE ANDERSON

Defendant.

:
:
:
:
:
:
:
:
:
:

Criminal Action No.05-57-JJF

ORDER

WHEREAS the government has filed a motion to extend the time for its response to the defendant's petition for a reduction of sentence pursuant to 18 U.S.C. §3582(c);

WHEREAS the Court is aware that the United States Attorney, the U.S. Probation Office, and the Federal Public Defender are presently reviewing all the cocaine base sentences previously imposed by the Court to determine which, if any, may qualify for a reduction pursuant to the recently amended United States Sentencing Guidelines;

WHEREAS the Court accepts the government's claim that a continuance of the briefing in this matter to allow for this review to continue is in the interest of justice;

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. The government's answering brief shall be filed no later than **Monday, March 31, 2008.**
2. Any reply brief shall be filed by Defendant no later than **Tuesday, April 8, 2008.**

Date

United States District Judge